

REMARKS

By this amendment, claims 12, 14, 16, 22 and 29 are amended. Applicant respectfully requests withdrawal of the rejections, and formal notification of the allowability of all claims as now presented in view of the above amendments and the remarks that follow.

Summary of the Official Action

In the instant Office Action, the Examiner indicated that claims 32-33, in addition to previously withdrawn claims 20 and 21, were directed to a non-elected embodiment and were therefore withdrawn. Finally, the Examiner rejected claims 12-14, 16-18, 20-26 and 28-33 over the art of record. By the present amendment and remarks, Applicant submits that the rejections have been overcome, and respectfully requests reconsideration of the outstanding Office Action and allowance of the present application.

Present Amendment is Proper for Entry

Applicant respectfully submits that the instant amendment is proper for entry after final rejection. Applicant notes that no question of new matter is presented nor are any new issues raised in entering the instant amendment of the claims and that no new search would be required. Moreover, Applicant submits that the instant amendment places the application in condition for allowance, or at least in better form for appeal. Accordingly, Applicant requests the Examiner to enter the instant amendment, consider the merits of the same, and indicate the allowability of the present application and each of the pending claims. Applicant note, in particular, that claims 12 and

22 have been amended to remove language which is believed to be redundant and unnecessary and submit that these claims are believed to define over the applied documents of record. Other claim changes are minor and relate to form.

Traversal of Rejection Under 35 U.S.C. § 102

Claims 12-14, 16, 17, 22, 25 and 26 were rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 4,949,845 to DIXON. Applicant respectfully traverses this rejection.

In order to establish a *prima facie* case of anticipation under 35 U.S.C. § 102, a single prior art reference must disclose each and every element as set forth in the subject claim. *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ 2d 1051, 1053 (Fed. Cir. 1987). Applicant respectfully submits that a *prima facie* case of anticipation cannot be established because DIXON fails to teach each and every element of the claims.

Contrary to the Examiner's assertions, DIXON does not disclose, or even suggest, the combination of features recited in at least claims 12 and 22. Applicant acknowledges the Examiner's assertion that reference number 40 of DIXON can arguably be characterized as the recited insertion tab and that member 46 can be arguably characterized as the recited perforated zone. Applicant also acknowledges that Fig. 9 of DIXON teaches that the so-called insertion tab 40 is insertable into the box. However, Applicant submits that the Examiner has failed to consider what DIXON actually discloses, and is taking inconsistent positions as to what DIXON discloses.

The Examiner identifies the recited lateral side panels in DIXON as members 18 and 20. Using such an interpretation, however, the Examiner cannot also assert that DIXON teaches the

recited bottom closure. This is because DIXON specifically teaches that the panel 20 "forms the bottom wall" (see col. 3, line 48). If panel 20 is properly interpreted as the bottom closure, then the Examiner must acknowledge that panels 18 and 20 cannot be characterized as the recited pair of opposing lateral side panels connecting said first side panel to said second side panel. Indeed, the Office Action is conspicuous for its failure to even identify the bottom closure in DIXON.

The Examiner's interpretation is even more problematic because it also ignores the fact that DIXON identifies the panel 18 (one of the so-called lateral side panels) as the "top wall" (see col. 3, line 9). If panel 18 is properly interpreted as the top closure, then the Examiner must acknowledge that panels 18 and 20 cannot be characterized as the recited pair of opposing lateral side panels connecting said first side panel to said second side panel.

Applicant emphasizes that, in Fig. 1 of DIXON, the top wall 18 is the panel to which the so-called insertion tab 40 is hinged. This is not the case, however, in the invention which clearly recites that the two-layered hanger is hinged to a top of one of the first or second side panels (i.e., ref. Nos. 1 and 3 in Fig. 1 of the instant application). Clearly, in DIXON, the two layered hanger 44/42 is hinged to a bottom of what the Examiner has identified as the perforated zone 46 (see Fig. 1 of DIXON). The invention, in contrast, provides that the two-layered hanger is hinged to a top of one of the first or second side panels.

Applicant does not dispute that the Examiner may take a broad interpretation of the disclosure of a prior art document. However, the Examiner is not free to ignore or mischaracterize the clear language of the prior art document, and is certainly not free to take an inconsistent reading of such a disclosure, and in particular, that of DIXON. Finally, Applicant emphasizes that it is

incumbent on the Examiner to identify each and every feature recited in the claims in the reference which is applied. This has not been done in this case.

Accordingly, Applicant respectfully submits that independent claims 12 and 22 are allowable, and that claims 13, 14, 16, 17, 25 and 26, which depend therefrom, are also allowable.

Accordingly, Applicant respectfully submits that the rejection under 35 U.S.C. § 102(b) should be withdrawn.

Traversal of Rejection Under 35 U.S.C. § 103

Over DE '468 with DE '053

Claims 12, 16 and 22 were rejected under 35 U.S.C. § 103(a) as unpatentable over DE 44 23 468 in view of DE 100 15 053.

The Examiner acknowledged that DE '468 lacks, among other features, the recited two-layered hanger hinged to a top of one of the side panels. However, the Examiner asserted that this features are disclosed in DE '053, and that it would have been obvious to one of ordinary skill in the art to combine the teachings of these documents. Applicant respectfully disagrees with the Examiner's assertions and traverses this rejection.

Notwithstanding the Office Action assertions as to each of DE '468 and DE '053 discloses or suggests, Applicant submits that no proper combination of DE '468 and DE '053 discloses, or even suggests, for example, the combination of features recited in at least claims 12 and 22.

As regards DE '468, Applicant submits that DE '468 teaches a bottom closure 5, a top closure 19, and an insertion tab 9 that is fixable to perforated zone of front side panel 4 (see Figs. 1-

4). Applicant also acknowledges that Fig. 4 of DE '468 is at least suggestive of inserting insertion tab 9 into the box. However, Applicant submits that the Examiner has failed to consider what DE '468 actually discloses, and is taking inconsistent positions as to what DE '468 discloses.

The Examiner apparently believes that the recited lateral side panels in DE '468 are members 5 and 19. Using such an interpretation, however, the Examiner cannot also assert that DE '468 teaches the recited bottom closure. This is because DE '468 specifically shows that the panel 5 forms the bottom wall (see Figs. 3 and 4). If panel 5 is properly interpreted as the bottom closure, then the Examiner must acknowledge that panels 5 and 19 cannot be characterized as the recited pair of opposing lateral side panels connecting said first side panel to said second side panel. Indeed, the Office Action is conspicuous for its failure to even identify the bottom closure in DE '468.

The Examiner's interpretation is also problematic because it also ignores the fact that DE '468 shows the panel 19 (one of the alleged lateral side panels) as a top wall (see Figs. 3 and 4). If panel 19 is properly interpreted as the top closure, then the Examiner must acknowledge that panels 5 and 19 cannot be characterized as the recited pair of opposing lateral side panels connecting said first side panel to said second side panel.

DE '053 does not and cannot cure the deficiencies of DE '468. First, there is no suggestion in either document to place the hanger of DE '053 on any particular portion of DE '468. The most obvious position, in fact, might be to hinge the hanger 32 of DE '043 on the top wall 19 of DE '468. The only other apparent option would be to hinge it to panel 4 (which would not work because the top of the panel 4 has the perforated zone). However, this modification would not result in anything approaching the invention. The invention clearly recites that the two-layered hanger is hinged to a

top of one of the first or second side panels (i.e., ref. Nos. 1 and 3 in Fig. 1 of the instant application).

Again, hinging panel 32 of DE '053 to the top of the panel 4 of DE '468 would make no sense because the top of the panel 4 has the perforated zone, which is removed upon opening of the package (see Fig. 4 of DE '468). Furthermore, while it is evident that DE '053 teaches to use a pair of opposing lateral side panels 13 and 14/15, DE '053 does not teach or suggest hinging any insertion tab to any of these panels 13 and 14/15.

Applicant submits that there is no reason or basis for modifying DE 468 and DE '053 in a manner which would render obvious Applicant's invention, and additionally, Applicant submits that there is no rationale disclosed or suggested in the prior art to modify the applied references in the manner suggested by the Examiner. The Examiner's opinion does not provide a proper basis for these features or for modifying these documents in the manner suggested by the Examiner. Therefore, Applicant submits that the invention as recited in at least independent claims 12 and 22 is not rendered obvious by any reasonable inspection and interpretation of the disclosure of the applied references.

Accordingly, Applicant respectfully submits that independent claims 12 and 22 are allowable, and that claim 16, which depends from claim 12, is also allowable.

Accordingly, Applicant respectfully submits that the rejection under 35 U.S.C. § 103(a) should be withdrawn.

Over Davidson with DE '053

Claims 12, 13, 16, 22 and 25 were rejected under 35 U.S.C. § 103(a) as unpatentable over US

Patent No. 2,038,893 to DAVIDSON in view of DE 100 15 053.

The Examiner acknowledged that DAVIDSON lacks, among other features, the recited two-layered hanger hinged to a top of one of the side panels. However, the Examiner asserted that this features are disclosed in DE '053, and that it would have been obvious to one of ordinary skill in the art to combine the teachings of these documents. Applicant respectfully disagrees with the Examiner's assertions and traverses this rejection.

Notwithstanding the Office Action assertions as to each of DAVIDSON and DE '053 discloses or suggests, Applicant submits that no proper combination of DAVIDSON and DE '053 discloses, or even suggests, for example, the combination of features recited in at least claims 12 and 22.

Regarding DAVIDSON , Applicant submits that DAVIDSON teaches a bottom closure 23, a top closure 25, and an insertion tab 26 that is fixable to perforated zone 38 of front side panel 22 (see Figs. 1-3). Applicant also acknowledges that Fig. 3 of DAVIDSON is at least suggestive of inserting insertion tab 26 into the box. However, Applicant submits that the Examiner has failed to consider what DAVIDSON actually discloses, and is taking inconsistent positions as to what DAVIDSON discloses.

The Examiner apparently believes that the recited lateral side panels in DAVIDSON are members 23 and 25. Using such an interpretation, however, the Examiner cannot also assert that DAVIDSON teaches the recited bottom closure. This is because DAVIDSON specifically shows that the panel 23 forms the bottom wall (see col. 2, line 20). If panel 23 is properly interpreted as the bottom closure, then the Examiner must acknowledge that panels 23 and 25 cannot be characterized

as the recited pair of opposing lateral side panels connecting said first side panel to said second side panel. Indeed, the Office Action is conspicuous for its failure to even identify the bottom closure in DAVIDSON.

The Examiner's interpretation is also problematic because it also ignores the fact that DAVIDSON shows the panel 25 (one of the alleged lateral side panels) as a top wall (see col. 2, line 21). If panel 25 is properly interpreted as the top closure, then the Examiner must acknowledge that panels 23 and 25 cannot be characterized as the recited pair of opposing lateral side panels connecting said first side panel to said second side panel.

DE '053 does not and cannot cure the deficiencies of DAVIDSON. First, there is no suggestion in either document to place the hanger of DE '053 on any particular portion of DAVIDSON. The most obvious position, in fact, might be to hinge the hanger 32 of DE '043 on the top wall 25 of DAVIDSON. The only other apparent option would be to hinge it to panel 22 (which would not work because the top of the panel 22 has the perforated zone 38). However, this modification would not result in anything approaching the invention. The invention clearly recites that the two-layered hanger is hinged to a top of one of the first or second side panels (i.e., ref. Nos. 1 and 3 in Fig. 1 of the instant application). Again, hinging panel 32 of DE '053 to the top of the panel 22 of DAVIDSON would make no sense because the top of the panel 22 has the perforated zone 38, which is removed upon opening of the package (see Fig. 3 of DAVIDSON). Furthermore, while it is evident that DE '053 teaches to use a pair of opposing lateral side panels 13 and 14/15, DE '053 does not teach or suggest hinging any insertion tab to any of these panels 13 and 14/15.

Accordingly, Applicant respectfully submits that independent claims 12 and 22 are allowable,

and that claims 13, 16 and 25, which depend from claims 12 and 22, are also allowable.

Accordingly, Applicant respectfully submits that the rejection under 35 U.S.C. § 103(a) should be withdrawn.

Over DE '468 or Davidson with DE '053 and Schultz

Claims 17, 18, 23 and 24 were rejected under 35 U.S.C. § 103(a) as unpatentable over US Patent No. 2,038,893 to DAVIDSON or DE 44 23 468 in view of DE 100 15 053, and further in view of US Patent No. 6,279,819 to SCHULTZ.

The Examiner acknowledged that DAVIDSON or DE '468 as modified by DE '053 lacks, among other features, the recited features of these dependent claims. However, the Examiner asserted that these features are disclosed in SCHULTZ, and that it would have been obvious to one of ordinary skill in the art to combine the teachings of these documents. Applicant respectfully disagrees with the Examiner's assertions and traverses this rejection.

Notwithstanding the Office Action assertions as to each of DAVIDSON, DE '468, DE '053 and SCHULTZ discloses or suggests, Applicant submits that no proper combination of these documents discloses, or even suggests, for example, the combination of features recited in at least claims 12 and 22.

As explained above, DE '468 teaches a bottom closure 5, a top closure 19, and an insertion tab 9 that is fixable to perforated zone of front side panel 4 (see Figs. 1-4), and Fig. 4 of DE '468 appears at least suggestive of inserting insertion tab 9 into the box. However, Applicant submits that the Examiner has failed to consider what DE '468 actually discloses, and is taking inconsistent

positions as to what DE '468 discloses.

The Examiner apparently believes that the recited lateral side panels in DE '468 are members 5 and 19. Using such an interpretation, however, the Examiner cannot also assert that DE '468 teaches the recited bottom closure. This is because DE '468 specifically shows that the panel 5 forms the bottom wall (see Figs. 3 and 4). If panel 5 is properly interpreted as the bottom closure, then the Examiner must acknowledge that panels 5 and 19 cannot be characterized as the recited pair of opposing lateral side panels connecting said first side panel to said second side panel. Indeed, the Office Action is conspicuous for its failure to even identify the bottom closure in DE '468.

The Examiner's interpretation is also problematic because it also ignores the fact that DE '468 shows the panel 19 (one of the alleged lateral side panels) as a top wall (see Figs. 3 and 4). If panel 19 is properly interpreted as the top closure, then the Examiner must acknowledge that panels 5 and 19 cannot be characterized as the recited pair of opposing lateral side panels connecting said first side panel to said second side panel.

Regarding DAVIDSON , Applicant submits that DAVIDSON teaches a bottom closure 23, a top closure 25, and an insertion tab 26 that is fixable to perforated zone 38 of front side panel 22 (see Figs. 1-3). Applicant also acknowledges that Fig. 3 of DAVIDSON is at least suggestive of inserting insertion tab 26 into the box. However, Applicant submits that the Examiner has failed to consider what DAVIDSON actually discloses, and is taking inconsistent positions as to what DAVIDSON discloses.

The Examiner apparently believes that the recited lateral side panels in DAVIDSON are members 23 and 25. Using such an interpretation, however, the Examiner cannot also assert that

DAVIDSON teaches the recited bottom closure. This is because DAVIDSON specifically shows that the panel 23 forms the bottom wall (see col. 2, line 20). If panel 23 is properly interpreted as the bottom closure, then the Examiner must acknowledge that panels 23 and 25 cannot be characterized as the recited pair of opposing lateral side panels connecting said first side panel to said second side panel. Indeed, the Office Action is conspicuous for its failure to even identify the bottom closure in DAVIDSON.

The Examiner's interpretation is also problematic because it also ignores the fact that DAVIDSON shows the panel 25 (one of the alleged lateral side panels) as a top wall (see col. 2, line 21). If panel 25 is properly interpreted as the top closure, then the Examiner must acknowledge that panels 23 and 25 cannot be characterized as the recited pair of opposing lateral side panels connecting said first side panel to said second side panel.

DE '053 does not and cannot cure the deficiencies of either DE '468 or DAVIDSON. As explained above, there is no suggestion in either document to place the hanger of DE '053 on any particular portion of DAVIDSON or DE '468. The most obvious position, in fact, might be to hinge the hanger 32 of DE '043 on the top wall 25 of DAVIDSON or on the top wall 19 of DE '468. However, as explained above, this would not work. Furthermore, while it is evident that DE '053 teaches to use a pair of opposing lateral side panels 13 and 14/15, DE '053 does not teach or suggest hinging any insertion tab to any of these panels 13 and 14/15.

SCHULTZ does not and cannot cure the deficiencies of either DE '468, DAVIDSON or DE '053. First, the Examiner has not alleged that SCHULTZ teaches any feature which Applicant has pointed out is missing in each of DE '468, DAVIDSON or DE '053. Second, there is no suggestion

in any of the applied documents to place the hanger and closure flap of SCHULTZ on any particular portion of DAVIDSON or DE '468. The most obvious position, in fact, might be to hinge the hanger 312/313 of SCHULTZ on the top wall 25 of DAVIDSON or on the top wall 19 of DE '468. However, as explained above, this would not work. Furthermore, while it is evident that SCHULTZ teaches to use a pair of opposing lateral side panels 13 and 14, SCHULTZ does not appear to teach or suggest hinging an insertion tab to any of these panels 13 and 14.

Accordingly, Applicant respectfully submits that independent claims 12 and 22 are allowable, and that claims 17, 18, 23 and 24, which depend from claims 12 and 22, are also allowable.

Accordingly, Applicant respectfully submits that the rejection under 35 U.S.C. § 103(a) should be withdrawn.

Over Dixon Alone

Claim 18 was rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 4,949,845 to DIXON. Applicant respectfully traverses this rejection.

The Examiner acknowledges that DIXON lacks the recited width of the cover flap but that this feature is obvious. Applicant disagrees. As explained above, DIXON does not disclose, or even suggest, the combination of features recited in at least claim 12.

Again, Applicant acknowledges the Examiner's assertion that reference number 40 of DIXON can arguably be characterized as the recited insertion tab and that member 46 can be arguably characterized as the recited perforated zone. Applicant also acknowledges that Fig. 9 of DIXON teaches that the so-called insertion tab 40 is insertable into the box. However, Applicant

submits that the Examiner has failed to consider what DIXON actually discloses, and is taking inconsistent positions as to what DIXON discloses.

The Examiner identifies the recited lateral side panels in DIXON as members 18 and 20. Using such an interpretation, however, the Examiner cannot also assert that DIXON teaches the recited bottom closure. This is because DIXON specifically teaches that the panel 20 "forms the bottom wall" (see col. 3, line 48). If panel 20 is properly interpreted as the bottom closure, then the Examiner must acknowledge that panels 18 and 20 cannot be characterized as the recited pair of opposing lateral side panels connecting said first side panel to said second side panel. Indeed, the Office Action is conspicuous for its failure to even identify the bottom closure in DIXON.

The Examiner's interpretation is even more problematic because it also ignores the fact that DIXON identifies the panel 18 (one of the so-called lateral side panels) as the "top wall" (see col. 3, line 9). If panel 18 is properly interpreted as the top closure, then the Examiner must acknowledge that panels 18 and 20 cannot be characterized as the recited pair of opposing lateral side panels connecting said first side panel to said second side panel.

Applicant emphasizes that, in Fig. 1 of DIXON, the top wall 18 is the panel to which the so-called insertion tab 40 is hinged. This is not the case, however, in the invention which clearly recites that the two-layered hanger is hinged to a top of one of the first or second side panels (i.e., ref. Nos. 1 and 3 in Fig. 1 of the instant application). Clearly, in DIXON, the two layered hanger 44/42 is hinged to a bottom of what the Examiner has identified as the perforated zone 46 (see Fig. 1 of DIXON). The invention, in contrast, provides that the two-layered hanger is hinged to a top of one of the first or second side panels.

Applicant does not dispute that the Examiner may take a broad interpretation of the disclosure of a prior art document. However, the Examiner is not free to ignore or mischaracterize the clear language of the prior art document, and is certainly not free to take an inconsistent reading of such a disclosure, and in particular, that of DIXON. Finally, Applicant emphasizes that it is incumbent on the Examiner to identify each and every feature recited in the claims in the reference which is applied. This has not been done in this case.

Accordingly, Applicant respectfully submits that independent claim 12 is allowable, and that claim 18, which depends therefrom, is also allowable.

Accordingly, Applicant respectfully submits that the rejection under 35 U.S.C. § 102(b) should be withdrawn.

Over DE '468 or Davidson with DE '053 and Schultz

Claims 28-31 were rejected under 35 U.S.C. § 103(a) as unpatentable over US Patent No. 2,038,893 to DAVIDSON or DE 44 23 468 in view of DE 100 15 053, and further in view of US Patent No. 6,279,819 to SCHULTZ.

The Examiner acknowledged that DAVIDSON or DE '468 as modified by DE '053 lacks, among other features, the recited features of these claims. However, the Examiner asserted that these features are disclosed in SCHULTZ, and that it would have been obvious to one of ordinary skill in the art to combine the teachings of these documents. Applicant respectfully disagrees with the Examiner's assertions and traverses this rejection.

Notwithstanding the Office Action assertions as to each of DAVIDSON, DE '468, DE '053

and SCHULTZ discloses or suggests, Applicant submits that no proper combination of these documents discloses, or even suggests, for example, the combination of features recited in at least claim 28.

As explained above, DE '468 teaches a bottom closure 5, a top closure 19, and an insertion tab 9 that is fixable to perforated zone of front side panel 4 (see Figs. 1-4), and Fig. 4 of DE '468 appears at least suggestive of inserting insertion tab 9 into the box. However, Applicant submits that the Examiner has failed to consider what DE '468 actually discloses, and is taking inconsistent positions as to what DE '468 discloses.

The Examiner apparently believes that the recited lateral side panels in DE '468 are members 5 and 19. Using such an interpretation, however, the Examiner cannot also assert that DE '468 teaches the recited bottom closure. This is because DE '468 specifically shows that the panel 5 forms the bottom wall (see Figs. 3 and 4). If panel 5 is properly interpreted as the bottom closure, then the Examiner must acknowledge that panels 5 and 19 cannot be characterized as the recited two lateral side panels is hinged relationship to the first side panel and the second side panel. Indeed, the Office Action is conspicuous for its failure to even identify the bottom closure in DE '468.

The Examiner's interpretation is also problematic because it also ignores the fact that DE '468 shows the panel 19 (one of the alleged lateral side panels) as a top wall (see Figs. 3 and 4). If panel 19 is properly interpreted as the top closure, then the Examiner must acknowledge that panels 5 and 19 cannot be characterized as the recited two lateral side panels is hinged relationship to the first side panel and the second side panel.

As regards DAVIDSON , Applicant submits that DAVIDSON teaches a bottom closure 23, a

top closure 25, and an insertion tab 26 that is fixable to perforated zone 38 of front side panel 22 (see Figs. 1-3). Applicant also acknowledges that Fig. 3 of DAVIDSON is at least suggestive of inserting insertion tab 26 into the box. However, Applicant submits that the Examiner has failed to consider what DAVIDSON actually discloses, and is taking inconsistent positions as to what DAVIDSON discloses.

The Examiner apparently believes that the recited lateral side panels in DAVIDSON are members 23 and 25. Using such an interpretation, however, the Examiner cannot also assert that DAVIDSON teaches the recited bottom closure. This is because DAVIDSON specifically shows that the panel 23 forms the bottom wall (see col. 2, line 20). If panel 23 is properly interpreted as the bottom closure, then the Examiner must acknowledge that panels 23 and 25 cannot be characterized as the recited two lateral side panels is hinged relationship to the first side panel and the second side panel. Indeed, the Office Action is conspicuous for its failure to even identify the bottom closure in DAVIDSON.

The Examiner's interpretation is also problematic because it also ignores the fact that DAVIDSON shows the panel 25 (one of the alleged lateral side panels) as a top wall (see col. 2, line 21). If panel 25 is properly interpreted as the top closure, then the Examiner must acknowledge that panels 23 and 25 cannot be characterized as the recited two lateral side panels is hinged relationship to the first side panel and the second side panel.

DE '053 does not and cannot cure the deficiencies of either DE '468 or DAVIDSON. As explained above, there is no suggestion in either document to place the hanger of DE '053 on any particular portion of DAVIDSON or DE '468. The most obvious position, in fact, might be to hinge

the hanger 32 of DE '043 on the top wall 25 of DAVIDSON or on the top wall 19 of DE '468. However, as explained above, this would not work. Furthermore, while it is evident that DE '053 teaches to use a pair of opposing lateral side panels 13 and 14/15, DE '053 does not teach or suggest hinging any insertion tab to any of these panels 13 and 14/15.

SCHULTZ does not and cannot cure the deficiencies of either DE '468, DAVIDSON or DE '053. First, the Examiner has not alleged that SCHULTZ teaches any feature which Applicant has pointed out is missing in each of DE '468, DAVIDSON or DE '053. Second, there is no suggestion in any of the applied documents to place the hanger and closure flap of SCHULTZ on any particular portion of DAVIDSON or DE '468. The most obvious position, in fact, might be to hinge the hanger 312/313 of SCHULTZ on the top wall 25 of DAVIDSON or on the top wall 19 of DE '468. However, as explained above, this would not work. Furthermore, while it is evident that SCHULTZ teaches to use a pair of opposing lateral side panels 13 and 14, SCHULTZ does not appear to teach or suggest hinging an insertion tab to any of these panels 13 and 14.

Accordingly, Applicant respectfully submits that independent claim 28 is allowable, and that claims 29-31, which depend from claim 28, is also allowable.

Accordingly, Applicant respectfully submits that the rejection under 35 U.S.C. § 103(a) should be withdrawn.

Request for Rejoinder of Non-Elected Claims

Applicant submits that rejoinder of withdrawn claims 20 and 21 is now proper. These claims should be rejoined because these claims depend from claim 12 which is believed to be allowable.

Applicant refers the Examiner to MPEP 821.04 which indicates that withdrawn claims which depend from or otherwise include all the limitations of the allowable claims will be rejoined if presented prior to allowance and issuance of a final rejection. Accordingly, Applicant requests that the Examiner rejoin all the withdrawn claims directed to the non-elected invention and consider the merits of the same.

CONCLUSION

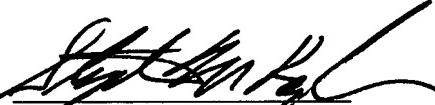
In view of the foregoing, it is submitted that none of the references of record, either taken alone or in any proper combination thereof, anticipate or render obvious the Applicant's invention, as recited in each of the pending claims. The applied references of record have been discussed and distinguished, while significant claimed features of the present invention have been pointed out.

Further, any amendments to the claims which have been made in this response and which have not been specifically noted to overcome a rejection based upon the prior art, should be considered to have been made for a purpose unrelated to patentability, and no estoppel should be deemed to attach thereto.

Accordingly, reconsideration of the outstanding Office Action and allowance of the present application and all the claims therein are respectfully requested and now believed to be appropriate.

The Commissioner is hereby authorized to refund excess payments and charge any additional fee necessary to have this paper entered to Deposit Account No.19-0089.

Respectfully submitted,
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